



CITY OF HAYWARD AGENDA REPORT

Meeting Date 04/24/03
Agenda Item 1

TO: Planning Commission

FROM: Erik J. Pearson, AICP, Associate Planner

SUBJECT: **Appeal of the Planning Director's Approval of Site Plan Review Application No. PL-2002-0374 (Modification of Zone Change 78-2) and Tentative Parcel Map 7890 – Holly Hartman (Applicant); Kong Yu (Owner):** Request to Subdivide a 3.5-Acre Parcel into 3 Lots and to Build 2 New Homes on Barn Rock Drive

The Project Location Is 28750 Hayward Boulevard, near Bailey Ranch Road, in a Planned Development (PD) Zoning District

RECOMMENDATION

Staff recommends that the Planning Commission:

1. Find that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15332 *In-Fill Development Projects*; and
2. Deny the appeal and uphold the Planning Director's decision to approve the Administrative Site Plan Review and Tentative Parcel Map, subject to the attached findings and conditions.

BACKGROUND

The applicant proposes a parcel map to subdivide a 3.5-acre parcel into three lots. The largest lot, containing 3 acres, will have frontage on Hayward Boulevard. The house located on the largest property, which is served by a driveway off Hayward Boulevard, will remain on this lot. Two smaller lots, containing 10,569 square feet and 14,411 square feet, will provide for two new houses fronting on Barn Rock Drive. The property is located in a Planned Development (PD) zoning district, which was established in 1979 when the surrounding Prominence subdivision was approved. The minimum lot size used in this Planned Development was 6,000 square feet with about half of the lots being over 10,000 square feet.

A preliminary meeting was held on November 1, 2001, to review the parcel map application. Neighbors at this meeting expressed a common concern regarding the design of the two new homes on Barn Rock Drive and asked for a design similar to the surrounding homes. In June 2002, the applicant submitted a Site Plan Review application with architectural plans for the two

houses. On July 30, 2002, another neighborhood meeting was held. Attendees expressed concerns about the then-proposed roof decks over the garages and they wanted more conformity to the surrounding homes including roof material and three-car garages that face the street.

Staff worked with the applicant to redesign the houses to address the neighborhood concerns. The roof decks over the garages were reduced to balconies, the roof material was changed from asphalt composition to concrete tile, and the three-car garages now face the street. After several revisions, the Planning Director approved the application on March 11, 2003. On March 13, 2003 a neighbor appealed the Planning Director's decision.

DISCUSSION

The appellant lives across the street from the proposed houses. He indicates that designs of the houses are inconsistent with the designs of surrounding homes and that the proposed decks are not only inconsistent in design but would cause a loss of privacy and could become an eyesore should the future residents use them for storage (see appeal attached as Attachment F). The appellant's house across the street has two first-floor windows and two second-floor windows facing the street. There has been no objection to the approval of the parcel map.

The lots in the surrounding Prominence residential development were created before the adoption of the City's Hillside Design Guidelines and, as such, they are flat, graded pads. Therefore, the designs of the homes on these lots are similar to the designs of homes found on flat terrain. However, the design of the proposed lots takes into consideration the Hillside Design Guidelines so that grading is minimized. In addition, the proposed houses are designed to conform to the City's Hillside Design Guidelines in that their foundations are stepped up the hill and are tri-level. As a result of minimizing grading, the designs of the homes necessarily differ from surrounding homes. Regardless, the houses have been designed to complement the homes in the neighborhood in that the colors, materials and architectural style are similar to the other homes.

Due to the steep terrain, each of the proposed homes will have very little flat area for yard space, especially in the rear yard. Even if the lots were made deeper, there still would be no additional usable rear yard area due to the slope of the land. The usable outdoor space for each house will be in the form of a patio and lawn area at the side of each house, elevated approximately 15 feet above street level but at the level of the main (mid-level) living area of the house. These yards are supported by a retaining wall and are located 25 to 30 feet from the front property lines. They have been designed to face each other to minimize impacts to surrounding existing homes. Low fencing is proposed about these yard spaces to maximize outward views of future residents. Because the appellant is concerned about the resulting lack of privacy, this issue could be addressed by installing a view-obscuring fence. However, front yards and streets are typically regarded as public spaces in terms of visibility, and to install a view-obscuring fence would deny the future residents of a view they would otherwise enjoy. Therefore, staff does not support installing a taller fence.

The homes feature balconies on the front sides over the garages. The balconies are accessed from family rooms and are 5.5 and 6 feet deep. The balconies wrap around to the side yards to provide connections to the patio areas. In staff's opinion, these decks are attractive architectural elements

that would not significantly intrude on privacy due to their limited size and for the reasons provided above.

ENVIRONMENTAL REVIEW:

The proposed project is Categorical Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Sections 15332, *In-Fill Development Projects*.

PUBLIC NOTICE

On June 27, 2002, a Referral Notice was sent to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. Notice was also provided to the Greenbriar Acres Homeowners Association, the Hayward Hills Property Owners Association, the Hayward Area Planning Association and the Hayward Highlands Neighborhood Task Force. The Referral Notice advertised a neighborhood meeting held on July 30, 2002, which was attended by approximately 15 people.

On March 12, 2003, a Notice of Decision regarding the administrative approval was mailed. On March 13, 2003 an appeal was received via e-mail. Since the notice was sent out no other comments were received.

On April 14, 2003, a Notice of Public Hearing for the Planning Commission meeting was mailed. In addition, a public notice sign was placed at the site prior to the Public Hearing to help notify neighbors and interested parties residing outside the 300-foot radius.

CONCLUSION

The proposed subdivision and house designs comply with the City Zoning Ordinance and Subdivision Ordinance regulations and the Hillside Design Guidelines. In staff's opinion, the proposed houses have been designed to substantially and reasonably address comments received at the neighborhood meetings. Staff recommends that the Planning Commission uphold the Planning Director's decision and deny the appeal.

Prepared by:



Erik J. Pearson, AICP
Associate Planner

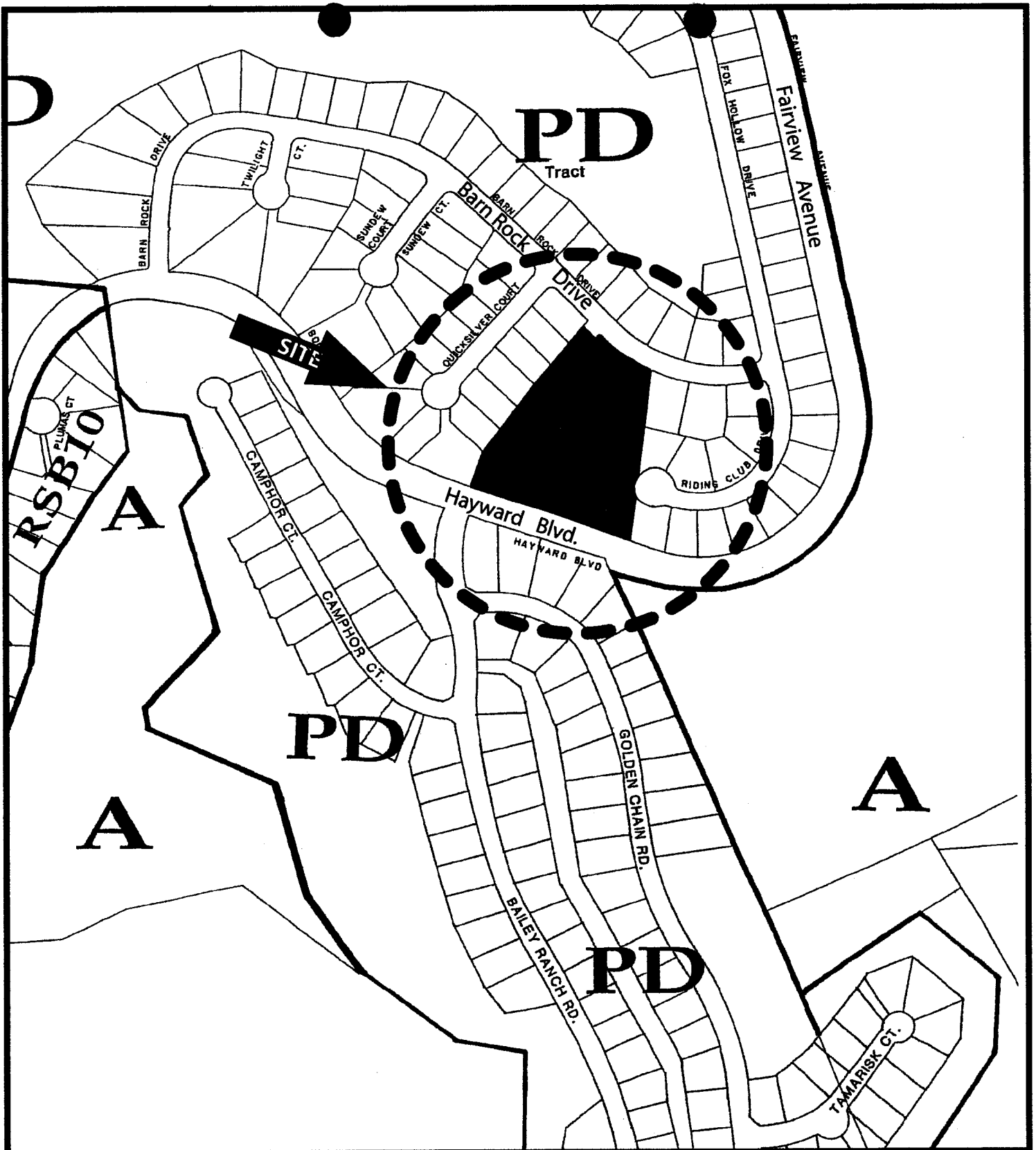
Recommended by:



Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Area & Zoning Map
- B. Findings for Approval of Administrative Site Plan Review Application No. PL-2002-0374
- C. Findings for Approval of Tentative Parcel Map 7890
- D. Conditions of Approval for Administrative Site Plan Review Application No. PL-2002-0374
- E. Conditions of Approval for Tentative Parcel Map 7890
- F. E-mail from neighbor dated 3/13/03
 - Rendering
 - Plans
 - Parcel Map



Area & Zoning Map

PL-2002-0374 SPR

Address: 28750 Hayward Blvd.

Applicant: Holly Hartman

Owner: Kong Yu

A-Agricultural-ABSA,AB10A,AB100A,AB160A
PD-Planned Development

**CITY OF HAYWARD
PLANNING DIVISION
ADMINISTRATIVE SITE PLAN REVIEW APPROVAL**

March 11, 2003

ADMINISTRATIVE SITE PLAN REVIEW APPLICATION NO. PL-2002-0374: Holly Hartman for Hometec Architecture (Applicant), Kong Yu (Owner) – Request to develop two single-family residences on lots created by Parcel Map 7890.

The project location is 28750 Hayward Boulevard in a PD (Planned Development Zoning District) Zoning District. The two homes will front on Barn Rock Drive.

FINDINGS FOR APPROVAL:

- A. That approval of Site Plan Review Permit No. PL-2002-0374, as conditioned, will have no significant impact on the environment, cumulative or otherwise, and the project reflects the City's independent judgment and is exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15332 of the CEQA Guidelines (In-Fill Development Projects).
- B. The development is compatible with on-site and surrounding structures and uses and is an attractive addition to the City in that the houses have been designed to use architecture and materials similar to those used in the existing neighborhood. The houses will have three-car garages facing the street and will have siding and roofing materials used throughout the neighborhood.
- C. The development takes into consideration physical and environmental constraints in that the homes are designed to step up the hillside so that grading will be minimized.
- D. The development complies with the intent of City development policies and regulations including, but not limited to the Zoning Ordinance, the City's Design Guidelines and the Hayward Highlands Neighborhood Plan.
- E. The development will be operated in a manner determined to be acceptable and compatible with surrounding development in that the use of the properties as single-family homes should be very similar to the use of surrounding properties.
- F. That the proposed project is in substantial conformance with Planned Development Zoning District (ZC-78-2) in that the homes will meet all applicable conditions of approval (including lot size) that all surrounding homes are/were subject to.

ATTACHMENT B

**FINDINGS FOR APPROVAL
TENTATIVE PARCEL MAP 7890**

- A. The development takes into consideration physical and environmental constraints in that approval of Tentative Parcel Map 7890, as conditioned, will have no significant impact on the environment, cumulative or otherwise, the project reflects the City's independent judgment, the project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15332, *In-Fill Development Projects*.
- B. The tentative parcel map, as conditioned, substantially conforms to the State Subdivision Map Act, the City's Subdivision Regulations, the General Policies Plan, and the Hayward Highlands Neighborhood Plan.
- C. The site is physically suitable for the proposed type of development.
- D. Existing streets and utilities are adequate to serve the project.
- E. None of the findings set forth in Section 64474 of the Subdivision Map Act¹ have been made, and the approval of the tentative parcel map is granted subject to the recommended conditions of approval.

¹ The findings of Section 66474 set forth the grounds for denial of a tentative map which are as follows:

- (a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.
- (b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
- (c) That the site is not physically suitable for the type of development.
- (d) That the site is not physically suitable for the proposed density of development.
- (e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- (f) That the design of the subdivision or type of improvements is likely to cause serious public health problems.
- (g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property with the proposed subdivision.

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ADMINISTRATIVE SITE PLAN REVIEW APPROVAL**

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CONDITIONS OF APPROVAL:

1. Administrative Site Plan Review Application No. PL-2002-0374, to allow the construction of two single-family residences, is approved by the Planning Director on March 11, 2003 subject to these conditions of approval and the plans, labeled Exhibit "A."
2. This approval is void two years after the effective date of approval unless a building permit application has been submitted and accepted for processing by the Building Official.
3. If a building permit is issued for construction of improvements authorized by the site plan review approval, the site plan review approval shall be void two years after issuance of the building permit, or three years after approval of the site plan review application, whichever is later, unless the construction authorized by the building permit has been substantially completed or substantial sums have been expended in reliance upon the site plan review approval.
4. A request for a one-year extension, approval of which is not guaranteed, must be submitted to the Planning Division 15 days prior to the expiration date.
5. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
6. Any proposal for alterations to the proposed site plan and/or design, which does not require a variance to any zoning code, must be approved by the Planning Director prior to implementation.

ATTACHMENT D

7. All improvements indicated on Exhibit "A", are hereby approved except as noted below, and must be installed prior to authorization for final building occupancy/gas or electric meter service.
8. Prior to application for a Building Permit the following changes shall be made to the plans:
 - a) A copy of these conditions of approval shall be included on a full-sized sheet(s) in the plan set.
 - b) Show that the existing valley gutter on the west side of Lot 2 will be put underground. A 12-inch HDPE pipe may be used or other material/size approved by the City Engineer.
 - c) A detail of the retaining walls shall be included to show that the finish color and material will blend in with the hillside.
 - d) The site plan shall show one 24" box street tree is required for every 20 – 40 lineal feet of frontage. Trees shall be planted to fill vacancies in the street tree pattern, and to replace any declining, dead or removed trees. Trees shall be planted according to the City Standard Detail SD-122.
 - e) Grading and improvement plans shall include tree preservation and protection measures, as required by the City Landscape Architect. Trees within 50' of construction shall be fenced at the drip line throughout the construction period.
 - f) Fire Prevention requirements:
 - i) Exterior construction materials shall be non-combustible/fire resistive (stucco, cement, etc.). The fire department will allow "Hardi-Plank" type siding materials, as this is a non-combustible, listed and approved material, approved for siding construction.
 - ii) Spark Arrestors required on chimney caps.
 - iii) Exterior eaves shall be enclosed/boxed.
 - iv) Decks shall be constructed of heavy timber, or non-combustible construction materials, or be fully protected with automatic fire sprinklers (if regular redwood construction is used).
 - v) Attic vents shall be installed with 1/4" metal mesh screening.
 - vi) Both structures shall be protected with an automatic fire sprinkler system designed and installed per NFPA 13-D (Modified) Standards. Fire sprinkler protection shall be installed within attic spaces, garages, under decking (if regular construction is used), under crawl spaces, porches/foyers, etc.
 - vii) Additional fire protection requirements may be imposed at time of building permit submittal, pending further review of the project.
9. A tree removal permit is required prior to the removal of any tree 8" in diameter, or larger. Replacement trees shall be required for any trees removed, as determined by the City Landscape Architect.

ATTACHMENT D

10. Prior to the issuance of a grading or building permit, a tree preservation bond, surety or deposit, equal in value to the trees to be preserved, shall be provided by the developer. The bond, surety or deposit shall be returned when the tract is accepted if the trees are found to be in a healthy, thriving and undamaged condition. The developer shall provide an arborist's report evaluating the condition of the trees.
11. Park Dedication In-Lieu Fees are required for 2 new dwelling units. Fees shall be those in effect at the time of issuance of the building permit.
12. Landscaping shall be maintained in a healthy, weed-free condition at all times. Plants shall be replaced when necessary. Required street, parking lot and buffer trees that are severely topped or pruned shall be replaced immediately, as determined by the City Landscape Architect.
13. Prior to final inspection all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Planning Director.
14. Violation of these conditions or requirements may result in the City of Hayward instituting a revocation hearing before the Planning Commission.

Engineering:

15. The proposed driveway on lot 2 shall be located 5 feet away from the existing streetlight.
16. The existing water meter on lot 2 that will not be used shall be abandoned at the main line by City forces at developer's expense.
17. Use the existing sanitary sewer lateral on lot 2 to avoid additional trenching across Barn Rock Drive.
18. The existing water meter on lot 3 shall be relocated outside the proposed driveway by City forces at developer's expense.
19. All proposed retaining walls should be reinforced concrete.
20. Swales shall be installed behind the retaining walls with runoff collected to an underground piping system.
21. The proposed 6 " drainage pipe on lot 3 shall be connected to the existing 12" storm drain system on Barn Rock Drive.

Public Works – Utilities Division:

22. Show on plans, the gallon per minute water demand so that the proper size meter can be determined.

ATTACHMENT D

23. Prior to Granting Occupancy, water services shall be installed for each house by city crews at applicant's expense. The application for water services shall be presented to the city inspector.
24. Existing sanitary sewer lateral inadequate for proposed lot split. As a condition of approval, each house must have an individual sewer lateral.
25. Water meters and services to be located two feet from top of driveway flare as per City of Hayward Standard Details 213 thru 218. Water meters to be located a minimum of six feet from sanitary sewer lateral as per State Health Code. Show proposed locations on plans. Driveway cuts shall be staked before service laterals are installed.
26. Show following notations on plans:
 - a) Provide keys/access code/automatic gate opener to utilities for all meters enclosed by a fence/gate as per Hayward Municipal Code 11-2.02.1.
 - b) **Only Water Distribution Personnel** shall perform operation of valves on the Hayward Water System.
 - c) Water and Sewer service available subject to standard conditions and fees in effect at time of application.

Solid Waste & Recycling:

27. This approval is subject to the requirements contained in the memo from the Solid Waste and Recycling Division of the Public Works Department dated 10/22/01.
28. A Construction and Demolition Debris Recycling Summary Report must be completed, including weigh tags, at the COMPLETION of the project.

ATTACHMENT D

**CONDITIONS OF APPROVAL
TENTATIVE PARCEL MAP 7890**

PRIOR TO RECORDATION OF THE PARCEL MAP:

1. The applicant shall apply for building permits on the two new parcels. The design of the houses to be constructed shall comply with City of Hayward Zoning Ordinance and Hillside Design Guidelines.
2. The vacation of the portion of Barn Rock Drive right of way shall be completed so that this area can be included in Lot 2.
3. Provide a grading and drainage plan for the homes on the two new parcels. The grading along the common property line of Lot 2 and 3 shall be redesigned to eliminate the two parallel retaining walls. City of Hayward standards require a minimum six feet separation between retaining walls.
4. Retaining walls shall be reinforced concrete and will be required to be finished with a color and material approved by the Planning Director.

PRIOR TO ISSUANCE OF A BUILDING PERMIT:

1. Prior to construction or installation of improvements, a building permit must be obtained from the Building Division. All improvements must be completed in accordance with the Uniform Building Code and Uniform Fire Code as adopted by the City of Hayward.
2. An Encroachment Permit will be necessary for work within the public right of way along Barn Rock Drive, including the installation of the two new driveways and storm drainage improvements. The driveway for Lot 2 shall be located a minimum of 5 feet away from the existing streetlight.
3. Each parcel must have a separate water service/meter installed at applicant's expense. Existing water meters to be removed shall be abandoned at the main line by City forces at applicant's expense.
4. Water meters shall be located two feet from the top of driveway flare as per City of Hayward Standard Details. If the existing water meters must be relocated out of the driveways, the work shall be performed by city crews at applicant's expense.
5. Each parcel must have a separate sanitary sewer lateral. The existing sanitary sewer lateral may be used for one of the new parcels.
6. These parcels are within the City's Urban/Wildland Interface Area and shall meet construction requirements for materials and fire protection as described in the Hillside

Design Guidelines, including a fire sprinkler system designed and installed per NFPA Standards.

7. The electrical services to the two parcels shall be underground.
8. Drainage swales shall be installed behind the retaining walls with runoff collected into an underground piping system. The existing swale along the edge of Lot 2 shall be replaced with a pipe system, which shall connect to the existing catch basin and pipe system along Barn Rock Drive.
9. The 6-inch PVC pipe connection from the private system within Lot 3 to the public storm drain within Barn Rock Drive shall be cast iron or ductile iron pipe.

PRIOR TO THE ISSUANCE OF CERTIFICATE OF OCCUPANCIES:

1. Prior to final inspection of the construction, all improvements and conditions of approval shall be completed to the satisfaction of the City Engineer and the Planning Director.
2. Park Dedication In-Lieu Fees are required for the two new dwelling units. Fees shall be those in effect at the time of issuance of the building permit.

Erik Pearson

From: Bill Craves [bcraves@attbi.com]
Sent: Thursday, March 13, 2003 7:40 PM
To: Erik Pearson
Subject: PL-2002-0374SPR
Follow Up Flag: Follow up
Due By: Friday, March 14, 2003 5:00 PM
Flag Status: Completed

I am in receipt of your notice that you have approved the plans for the two lots on Barn Rock Drive. It was our understanding from the last meeting that there would be another open meeting to discuss this issue prior to any commission approval. In reviewing the elevation drawings you are still proposing decks that face the street the homes are tri-level. One of the primary issues expressed at the last meeting was the exposed decks which exist nowhere else in the entire subdivision. Living directly across the street from these homes I am adamantly against this feature of this design as it will impinge on the privacy of the neighborhood, and become a potential eyesore as decks are often used as excess storage areas by owners.

I need to know what steps I need to take to file an appeal.

I would like an explanation why this approval has occurred since we were told we would have the opportunity to discuss this in another open meeting.

I would like to know if the city policy to give only two weeks notice for appeals.

I would also like to know who has received this notice in Prominence.

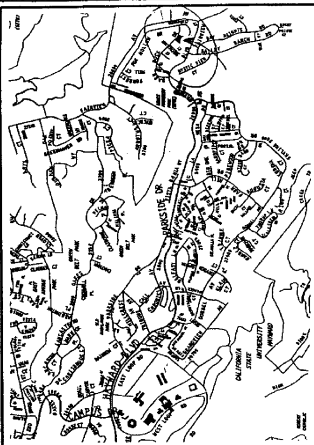
Regards,

Bill Craves

ATTACHMENT F

3/28/2003

**DUE TO THE LENGTH OR COLOR
OF THE REFERENCED EXHIBIT,
IT HAS BEEN ATTACHED AS A
SEPARATE LINK.**



VICINITY MAP

APN: 415-0410-002-0000

ZONED: R1 TD

LOT SIZE: LOT 1: 14,411 S.F. LOT 2: 10,967 S.F.

EXISTING USE: MOUNT

MAIN FLOOR: 1015

UPPER FLOOR: 1957

LOWER FLOOR: 602

TOTAL HOUSE: 3752 S.F.

ATTACHED GARAGE: 758 S.F.

PREMIUM REQUIRED: 2 CARS COVERED PER UNIT

PROPOSED: 3 CARS COVERED PER UNIT

LOT DENSITY: 1

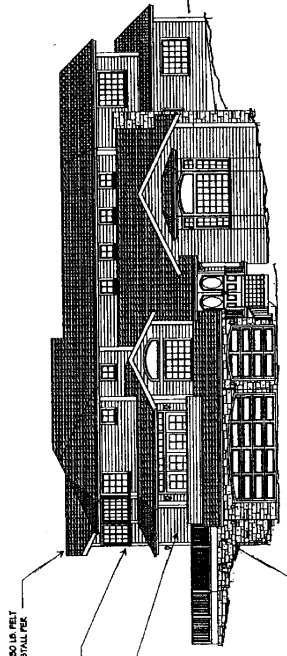
PROPOSED: 4 UNITS/ACRE

TYPE OF CONSTRUCTION: RM
 OCCUPANCY GROUP: R-5
 THIS PROJECT SHALL COMPLY WITH 1897 UBC, IBC, IFC, 1999 IBC, AS AMENDED
 BY THE STATE OF CALIFORNIA, AND LOCAL ORD.

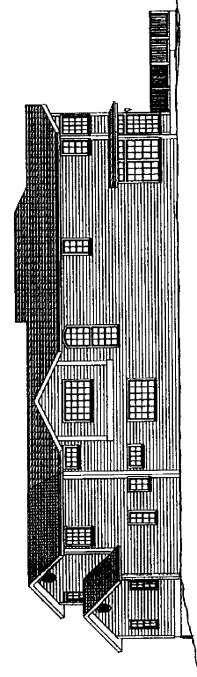
SITE DATA



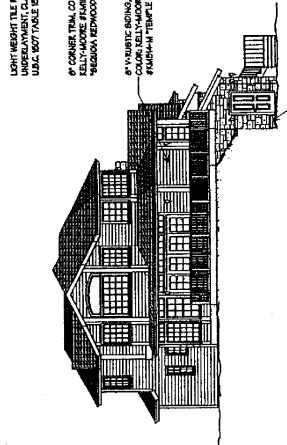
SITE PLAN (1"=10'-0")



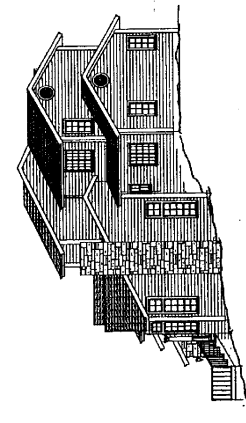
NORTH ELEVATION



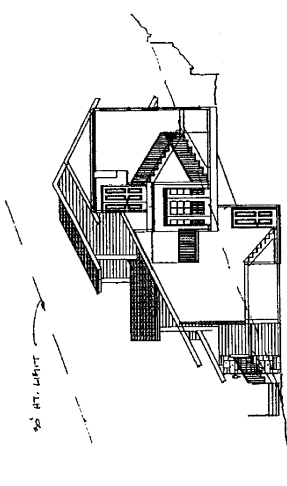
SOUTH ELEVATION



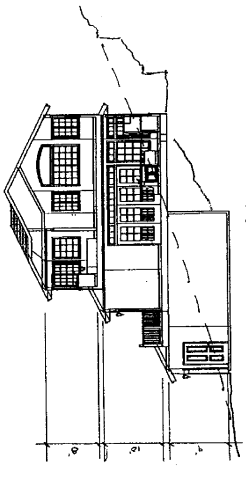
EAST ELEVATION



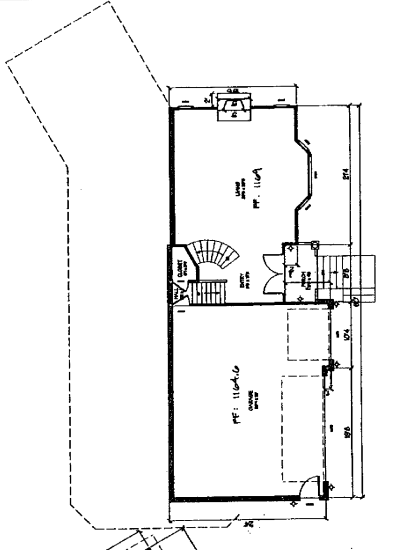
WEST ELEVATION



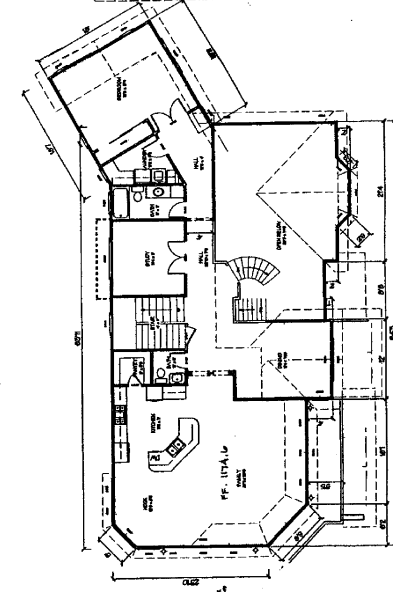
SECTION



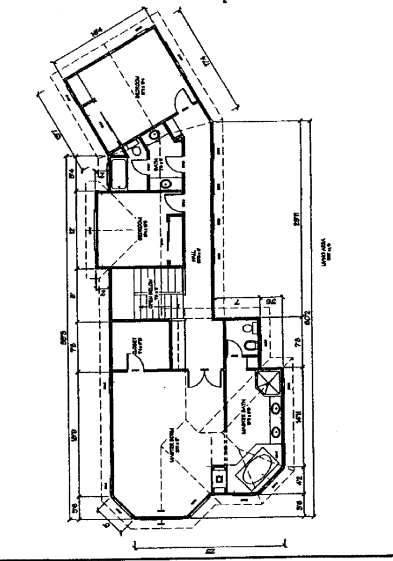
SECTION



LOWER FLOOR PLAN



MAIN FLOOR PLAN



UPPER FLOOR PLAN

LOT #2

NORTH ELEVATION

EAST ELEVATION

SECTION

SOUTH ELEVATION

WEST ELEVATION

MAIN FLOOR PLAN

LOWER FLOOR PLAN

UPPER FLOOR PLAN

RED BRICK VENEER BY
CULTURE STONE PCS-A082
"USED PICK, ANTIQUE REP"

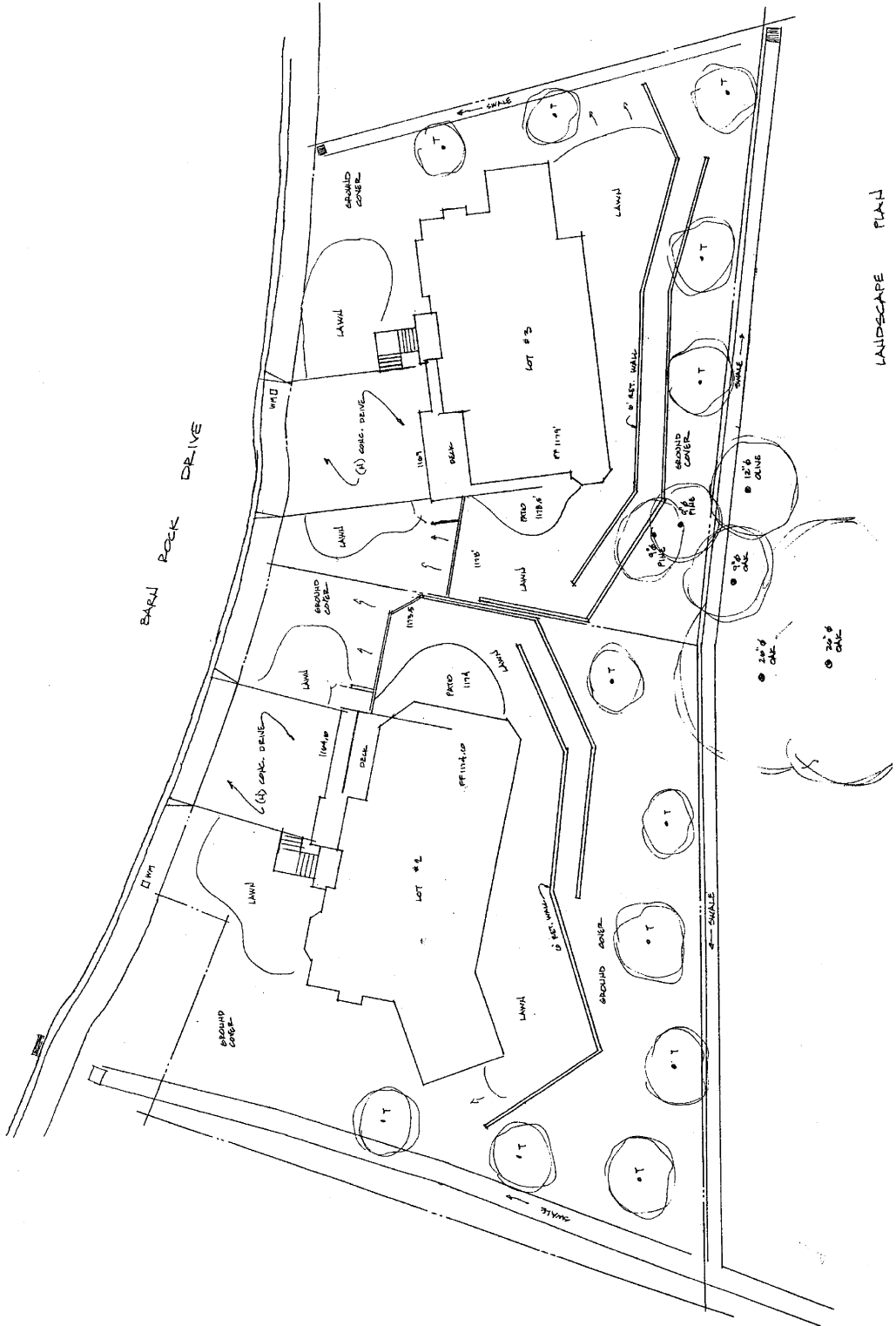
6" CORNER TRIM
COLOR WHITE

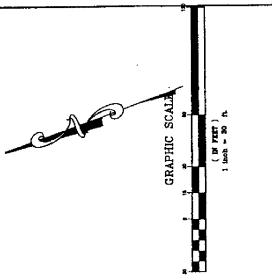
1/4" WHITE SIDING
COLOR KELLEY-WOODPE
PANELS "VARDOT"

LIGHT WEIGHT TILE ROOF WITH DOW
PELT UNDERLAYMENT

LOT #3

LANDSCAPE PLAN





DATA TABLE				
NUMBER	RADIUS	DELTA	LENGTH	BEARING
1	421.00"	8°54'51"	51.17'	N47°29'34"W
2	421.00"	8°54'51"	51.17'	N47°29'34"W
3	50.00'	23°47'48"	6.43'	N88°32'25"E
4	50.00'	23°47'48"	20.16'	N87°46'45"W
5	50.00'	23°47'48"	5.28'	N07°05'10"W
6	50.00'	23°47'48"	25.76'	N43°02'02"E
7	428.00"	9°23'11"	14.48'	N43°02'02"E
8	428.00"	9°23'11"	14.48'	N43°02'02"E
9	300.00'	23°47'48"	14.57'	N43°00'00"E
10	300.00'	23°47'48"	70.87'	N43°00'00"E
11	300.00'	23°47'48"	11.86'	N43°00'00"E
12	300.00'	23°47'48"	10.28'	N43°00'00"E

[illegible]

DATE: 12/1/02

8750 HAYWARD BLVD.

GRADING & DRAINAGE PLAN

SHEET 1 OF 1

K W ENGINEERING, INC.
CIVIL ENGINEERS • LAND SURVEYORS • PLANNERS
516A VALLEY WAY
MILPITAS, CA 95035
(408) 935-8948 FAX. (408) 935-9804
C/O FILE: 01508

408) 935-9904
CAD FILE: 01508

